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Report of the Secretary-General on the progress made with regard to the stabilization and restoration of constitutional order in Guinea-Bissau

I. Introduction

1. The present report, submitted pursuant to paragraph 19 of Security Council resolution 2267 (2016), is my second report on the progress made by Guinea-Bissau with regard to the stabilization and restoration of constitutional order in the country. It provides an update on relevant developments since my previous report of 12 August 2015 (S/2005/619) and includes recommendations on the continuation of the sanctions regime, pursuant to Council resolution 2267 (2016) and in line with paragraph 12 of Council resolution 2048 (2012).

2. In fulfilment of the above request from the Security Council, the Department of Political Affairs undertook an assessment, facilitated by the United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS). Discussions were held with representatives of political parties in the National People's Assembly, including the President of the African Party for the Independence for Guinea-Bissau and Cabo Verde (PAIGC), the Secretary-General of the Party for Social Renewal (PRS) and the President of Union for Change (UM), with representatives of the Permanent Mission of Guinea-Bissau to the United Nations and with representatives of Angola and Brazil (Chair of the Peacebuilding Commission and Chair of the Guinea-Bissau configuration of the Peacebuilding Commission). Discussions were also held with representatives of China, France, Nigeria, Portugal, the Russian Federation, Senegal, Spain, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Timor-Leste, the African Union, the Community of Portuguese Language Countries, the Economic Community of West African States (ECOWAS), the European Union, the United Nations Office for West Africa and the Sahel (UNOWAS) and civil society organizations ("Former Freedom Fighters" organization and the Women's Political Platform).

II. Key findings

3. The tentative yet significant progress made in Guinea-Bissau following the 2014 elections, through the formation of a legitimate, inclusive and democratic Government, has largely been reversed. Three successive changes in Government and a prolonged period of political paralysis have resulted in the further weakening

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of State institutions over the last 12 months. The implementation of key priority reforms in the defence, security and judicial sectors has been suspended and the provision of basic services has been negatively affected. The uncertain political environment has reduced both donor and investor confidence.

4. The recommendations on the continuation of United Nations sanctions contained in my previous report (S/2005/619) remain valid and relevant to the deteriorating political situation in Guinea-Bissau. These recommendations include: the maintenance of the present sanctions regime to signal to the entire population that measures are applicable to all spoilers, regardless of their political or institutional affiliation, and that the Council remains ready to adjust the measures and designations as needed; the establishment of a panel of experts to support the Committee's work; the establishment of clear benchmarks for lifting sanctions; and a review of the situation with respect to the 11 designated individuals to determine if they continue to meet the listing criteria.

5. There is broad consensus that sanctions have acted as a deterrent to the direct involvement of the security and defence forces in the deteriorating political situation the country has faced since August 2015. Stability within the military has also been promoted through capacity-building and education programmes, supported by the Chief of General Staff of the armed forces. However, the risk of an intervention by the military may increase if: the political crisis persists; reforms of relevant sectors are not implemented; and, in particular, the precarious budgetary situation prevents the payment of soldiers.

III. Sanctions in Guinea-Bissau

6. There have been no changes to the sanctions regime established by the Security Council pursuant to resolution 2048 (2012) since my last report (S/2015/619). The travel ban measure remains in place and the 2048 (2012) Committee sanctions list contains the names of 11 individuals, all members of the "Military Command" responsible for the 12 April 2012 coup d'état. Five were designated by the Security Council on 18 May 2012 (Ibraima Camará, António Injai, Estêvão Na Mena, Daba Naualna and Mamadu Ture) and six were subsequently designated by the 2048 (2012) Committee on 18 July 2012 (Sanha Clussé, Cranha Danfa, Idrissa Djaló, Tchipa Na Bidon, Tcham Na Man and Júlio Nhate).

7. During the last 12 months, the 11 sanctioned individuals remained part of the armed forces of Guinea-Bissau and, with three exceptions, continued to perform the same functions. On 30 June 2016, the Council of Ministers appointed Brigadier-General Daba Naualna, former spokesperson of the Chief of General Staff of the armed forces, as President of the Superior Military Tribunal, and Brigadier-General Tchipa Na Bidon as President of the Central Region Military Court. Rear Admiral Sanha Clussé, Chief of General Staff of the Navy, reportedly died on 24 April 2016. It should be noted that his name remains on the 2048 (2012) Committee sanctions list.

8. Since August 2015, there are reports that four designated individuals have travelled outside of Guinea-Bissau. While the individuals claimed that they had been outside the country for medical reasons, these violations of the travel ban continue to bring into question the efficacy of the implementation of the measure in

the region. The assessment also revealed that some misunderstanding remains with regard to the scope of the travel ban restriction. It is important to note that travel, justified on the grounds of humanitarian need, may be approved on a case-by-case basis by the 2048 (2012) Sanctions Committee.[1] Since my last report, the Committee has not received any request for an exemption in that regard. To maintain the credibility of the sanctions regime in Guinea-Bissau, it is important that the Committee follow up on these and any future alleged violations of sanctions measures.

9. However, as noted in my previous report, the impact of sanctions in Guinea-Bissau has surpassed the travel ban restrictions imposed by resolution 2048 (2012). While it remains difficult to isolate the contribution of United Nations sanctions relative to other factors, all interlocutors with whom the assessment team engaged agreed that sanctions had acted as a deterrent to the direct involvement of the security and defence forces in the political crisis the country has been facing since August 2015. It was in that context that the assessment team noted calls for the possible application of sanctions for any individuals responsible for fomenting political instability within the country.

IV. Progress made with regard to the stabilization and restoration of constitutional order in Guinea-Bissau

10. Since my last report, Guinea-Bissau has been in a continuous political crisis that has deeply affected the functioning of State institutions and undermined progress in the implementation of national reforms, as well as the country's socioeconomic prospects. The country is experiencing a period of political paralysis, which has created a sense of deep frustration and disappointment for both the people of Guinea-Bissau and international stakeholders.

11. In August 2015, President José Mário Vaz dismissed Prime Minister Domingos Simões Pereira and his Government. Following Mr. Pereira's dismissal, President Vaz appointed the third Vice-President of the PAIGC, Baciro Djá, as Prime Minister. However, on 8 September 2015, the Supreme Court ruled that the presidential decree appointing Mr. Djá was unconstitutional. After the Court's ruling, President Vaz initiated consultations with the five political parties represented in the National People's Assembly on the selection of a new Prime Minister. At the end of the consultations, the President accepted the candidate proposed by PAIGC, Carlos Correia, the party's first Vice-President, who was appointed and sworn into office on 17 September 2015.

12. The political environment in Guinea-Bissau remained tense, however, with deepening fissures between key political and institutional stakeholders. In December 2015, the National People's Assembly failed to adopt the Government's programme after 15 PAIGC and 41 PRS members of the Assembly abstained from the vote. The 15 PAIGC members were subsequently expelled by the PAIGC National Council of Jurisdiction and replaced with new members, and on 15 January 2016 their parliamentary mandate was removed by the Permanent Commission of the Assembly. On 28 January 2016, while President Vaz was undertaking consultations with political stakeholders, the Assembly approved the Government's

[1] See resolution 2048 (2012), para. 5.

programme of work in a session not attended by the members of PRS. On 4 April 2016, the decisions of the Permanent Commission of the Assembly and the PAIGC National Council were declared unconstitutional by the Supreme Court, which ordered the reinstatement of the 15 expelled PAIGC members of the Assembly. As a result, the Government's programme of work has not been adopted.

13. Continued political tensions ultimately led to the dismissal by President Vaz of Prime Minister Carlos Correia on 12 May 2016, barely eight months after his appointment. On 26 May 2016, President Vaz once again appointed Baciro Djá as Prime Minister. To express their dissatisfaction with the President's decision, members of the dismissed Government occupied the Government Palace for 14 days while PAIGC petitioned the Supreme Court, questioning the constitutionality of Mr. Djá's reappointment. The prolonged impasse over the new cabinet, the fourth since the legislative elections of May 2014, came close to a confrontation, as security forces reinforced their presence at the Government Palace. On 9 June 2016, following intensive negotiations involving leaders from civil society, the Economic Community of West African States (ECOWAS) Mission in Guinea-Bissau (ECOMIB) and UNIOGBIS, the remaining members of the dismissed cabinet vacated the Government Palace peacefully.

14. On 15 July 2016, the Supreme Court voted 7 to 3 to declare Mr. Djá's appointment constitutional. However, at the time of the writing of the present report, the Government's programme of work still lacked approval by the National Assembly and deep divisions persisted inside PAIGC.

15. To date the security and defence forces have refrained from getting involved in the political crisis, although ECOMIB has played an important role by closely monitoring the security situation in the country and deterring the security forces from intervening. At the 49th Ordinary Session of the Authority of Heads of State and Government of ECOWAS, on 4 June 2016, the mandate of ECOMIB was extended for a further 12 months. This extension was welcomed by the African Union Peace and Security Council at its 604th meeting, on 9 June 2016, following its mission to the country from 16 to 21 March 2016, and by the members of the Security Council on 14 June 2016. Conferences between civil and military entities and the promotion of unity and stability within the military through capacity-building and education programmes supported by the Chief of General Staff of the armed forces have also been viewed as positive efforts contributing to the peaceful response of the security forces to political developments.[2] There is a need for the international community to enhance support for critical reforms of the defence sector and for efforts to secure the gains achieved thus far.

16. As a result of the political instability, many of the positive developments achieved in the aftermath of the Presidential elections in 2014 have been derailed. Efforts to implement the recommendations contained in the universal periodic review of the Human Rights Council and advanced at the 2013 National Conference on Impunity, Justice and Human Rights have been delayed. The crisis and consequent industrial (job) action have negatively affected the administration of education and health sectors, with a disproportionate impact on children and women. Representatives from women's groups expressed deep frustration and concerns over the adverse impact the current crisis is having on women's

[2] Interview with the President of the "Former Freedom Fighters" organization.

participation in politics and in the decisions which affect them. They noted that they had proposed landmark legislation at the National Assembly advocating a 40-per-cent level of representation by women in politics, but that the legislation had not passed due to the paralysis within the National Assembly.

17. In spite of the ongoing uncertainty over governance, economic growth and recovery is expected to continue in 2016. However, against this fragile political background, donors have been reluctant to honour pledges made at the international partners' round table in March 2015. Moreover, major institutions such as the World Bank, the African Development Bank and the European Union have suspended budget support to Guinea-Bissau, while the International Monetary Fund (IMF) has interrupted "balance of payments support". Eighty per cent of the budget of Guinea-Bissau depends on external financial support. The suspension of international financial assistance could, therefore, have a devastating impact on the Government's capacity for social intervention and its ability to pay public salaries.

18. There are concerns that groups such as Al-Qaida in the Islamic Maghreb could take advantage of the instability in Guinea-Bissau to gain a foothold to advance their agenda of violent extremism. In March 2016, four individuals suspected of collaborating with an Al-Qaida-linked group were followed in Guinea-Bissau and arrested by the authorities while crossing the border. There are concerns in the region that the country could become a target for terrorist incursions, as, in the present environment, the capacity of the Government to respond to this threat or to possible threats of transnational organized crime and drug trafficking remains limited.

19. My Special Representative for Guinea-Bissau has been using his good offices, in close consultation with regional and international partners, to persuade national stakeholders to urgently resolve the current impasse through dialogue, in accordance with the Constitution. At its 586th meeting, on 31 March 2016, the African Union Peace and Security Council requested the Chairperson of the Commission to propose a high-level facilitator team to engage Guinea-Bissau stakeholders to support the creation of and conditions for a dialogue between the main political stakeholders. At the 49th ordinary session of the Authority of Heads of State and Government of ECOWAS on 4 June 2016, the Community decided to deploy a high-level delegation composed of the Presidents of Guinea, Senegal and Sierra Leone to Guinea-Bissau in order to contribute to the search for a solution to the political impasse. Former President Olusegun Obasanjo, in his capacity of Special Envoy for Guinea-Bissau of President Muhammadu Buhari of Nigeria, has also been actively involved in mediation efforts within the framework of ECOWAS and in consultation with my Special Representative for Guinea-Bissau.

20. As stated in my previous report (S/2015/619), the root causes of instability in Guinea-Bissau remain unaddressed and the current political paralysis risks reversing the progress made after the successful general elections in 2014. Stakeholders need to address the issues related to the current crisis through constructive dialogue and understanding, with particular attention to ending the current constitutional crises, respecting the rule of law, combating impunity, promoting accountability and seeking viable solutions.

V. Recommendations on the continuation of United Nations sanctions

21. The prolonged political paralysis within Guinea-Bissau over the last 12 months has highlighted the fragility of State institutions, albeit within the framework of the recently restored constitutional order. Ambiguity in interpretation of the separation of powers has led to the frequent changes of Government during this period. This has undermined political cooperation between the President, the Prime Minister and the President of the National Assembly, and has stalled the country's reform agenda, aggravating donor fatigue. Reforms, especially in the justice, security and defence sectors, are not only critical for the ongoing stability of Guinea-Bissau, but are the preconditions for renewed engagement and financial assistance from international partners.

22. The recommendations on the continuation of United Nations sanctions contained in my previous report (S/2005/619) remain valid and relevant to the deteriorating political situation in Guinea-Bissau. The Security Council may wish to maintain the current designation criteria and send a clear message to all citizens of Guinea-Bissau that the sanctions regime is applicable to all spoilers, regardless of their political or institutional affiliation, and that the Council is ready to give consideration to further enhancing sanctions measures and designations as and when required. The Council could also consider the establishment of a panel of experts in order to deepen the information base for more targeted and effective sanctions. Such a panel could also serve to promote greater awareness of the sanctions regime inside the country. The Panel's existence would also serve as a deterrent by signalling to would-be political spoilers that the Council is closely monitoring developments in Guinea-Bissau. Should the Council decide to establish such a panel, it could be mandated to identify those who meet the designation criteria for targeted measures.

23. The reported death in 2016 of one of the still-listed individuals and the appointment of another one to an important judicial position highlight the importance for the Security Council and its 2048 (2012) Sanctions Committee of reviewing the sanctions list in order to maintain the credibility of the regime. The establishment of a panel of experts, as proposed above, could assist in that process. Such a review could also be timed to coincide with consideration of key benchmarks, the completion of which might enable sanctions measures to be further adjusted, expanded or lifted. The establishment of benchmarks would send an important signal to designated individuals that there is a path to delisting.

24. Throughout this period of political instability within Guinea-Bissau, the Security Council has remained actively engaged and consistently responded to key political developments in Guinea-Bissau, expressing concern about political tensions and calling for continued respect for the rule of law and the promotion of inclusive dialogue to resolve the political impasse.[3] Direct engagement by the 2048 (2012) Sanctions Committee with local, regional and international actors, as well as United Nations system partners, would signal to the population an increased level of attention by the Council. The Council undertook a mission to Guinea-Bissau, on 7 March 2016, its first in more than a decade, in order to assess the situation on the

[3] See Security Council press statements on the situation in Guinea-Bissau (SC/12005, 12 August 2015); (SC/12007, 14 August 2015); (SC/12054, 21 September 2015); and (SC/12405, 15 June 2016).

ground and to deliver key messages to national stakeholders. Similarly, the Sanctions Committee may also wish to consider the possibility of its Chair undertaking a visit to Guinea-Bissau and the region to increase awareness of the sanctions and bolster their effectiveness.

25. The targeted measures imposed on individuals in Guinea-Bissau are directly aimed at protecting the peacebuilding and political process from actual and potential spoilers. In addition, the United Nations could help to create a more conducive environment for mediation of the crisis and provide mediators with greater leverage.